

LOCAL 513, INTERNATIONAL UNION OF  
OPERATING ENGINEERS, AFL-CIO, et al.,

v.

MILLER CONTRACTING SERVICES,  
INC., et al.,

3. Defendants shall make a second payment in the amount of Twenty-Five Thousand Dollars (\$25,000.00) to Plaintiffs by Cashier's Check made payable to "Operating Engineers Local 513 Fringe Benefit Funds" by or before May 30, 2008. The check shall be delivered to the offices of counsel for Plaintiffs, James R. Kimmey, Bartley Goffstein, L.L.C., 4399 Laclede Ave., St. Louis, MO 63108.

4. Between by or before July 20, 2008 and May 20, 2010, Defendant shall make twenty-three (23) equal monthly installment payments in the amount of Four Thousand Dollars (\$4,000.00) by cashier's check payable to "Operating Engineers Local 513 Fringe Benefit Funds" on or before the 20th of each month. Such payments shall be delivered to Operating Engineers Local 513 Fringe Benefit Funds," 3449 Hollenberg Dr., Suite 150, Bridgeton, MO 63044. The memo of each such check shall bear the notation "Payment x of 24; 4:07-cv-1848 (RWS)."

5. By or before June 20, 2010, Defendant shall make the twenty-fourth (24th) payment in the amount of Four Thousand Two Hundred Eleven Dollars Seventy-Four Cents (\$4,211.74) by cashier's check payable to "Operating Engineers Local 513 Fringe Benefit Funds" on or before the 20th of each month. Such payments shall be delivered to Operating Engineers Local 513 Fringe Benefit Funds," 3449 Hollenberg Dr., Suite 150, Bridgeton, MO 63044. The memo of each such check shall bear the notation "Payment 24 of 24; 4:07-cv-1848 (RWS)."

6. In the event Miller Contracting and/or JM Operating Services shall not timely make any of the payments called for in paragraphs 4 and 5, Plaintiffs shall notify Defendants, in writing of the default and Defendants shall have a period of seven (7) days in which to make the payment. Plaintiffs shall serve notice on Defendants at 2233 Olive St., St. Louis, MO 63103, or such other address as Defendants shall provide.

7. The above-referenced payments do not include statutory or contract interest, liquidated damages or attorney's fees.

8. Beginning on the Friday of the week after the Parties execute this Consent Judgment, and continuing thereafter on each and every Friday during the term of repayment as stated in paragraphs 2 through 5, Miller Contracting and/or JM Operating Services shall submit a

Contribution Report Form with payment of the contributions due for the immediately preceding week. Miller Contracting Services and/or JM Operating Services shall timely submit Contribution Report Forms for any week for which no contributions are due because no work was performed.

9. Should Miller Contracting Services and/or JM Operating Services fail to timely make any of the payments described in paragraphs 4,5 and 8 above, after the grace period called for in paragraph 6, Plaintiffs shall have right of execution upon all amounts subject to this Consent Judgment, as if no amounts had been paid. This right of execution shall include all outstanding payments; interest at the rate of nine percent (9%) per annum on all monthly contributions constituting the Base Amount, from the date each monthly contribution was due; liquidated damages in the amount of twenty percent (20%) of the Base Amount; all costs; and attorney's fees of thirty-three and one-third percent (33-1/3%) of the sum of each of the foregoing amounts.

MILLER CONTRACTING SERVICES, INC.

By: [Signature]

Its: [Signature]

JM OPERATING SERVICES, LLC

By: [Signature]

Its: [Signature]

LOCAL 513, INTERNATIONAL UNION OF  
OPERATING ENGINEERS, AFL-CIO,

By: Richard Dickens

Its: PREZ. / Bldg. Mgr.

LOCAL UNION 513 PENSION FUND,

By: Richard Dickens

Its: TRUSTEE

LOCAL UNION 513 HEALTH AND  
WELFARE FUND,

By: Richard Dickens

Its: TRUSTEE

LOCAL UNION 513 SUPPLEMENTAL  
VACATION FUND,

By: Richard Dickens

Its: TRUSTEE

LOCAL UNION 513 ANNUITY FUND

By: Richard Dickens

Its: TRUSTEE

LOCAL UNION 513 JOINT  
APPRENTICESHIP TRAINING FUND

By: Richard Dickens

Its: TRUSTEE

SO ORDERED:

[Signature]  
Hon. Rodney W. Sippel  
United States District Judge

Dated: April 9, 2003